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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,616	02/28/2002	Duane Detwiler	105450-00009	1622

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EXAMINER

GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 09/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

8

# Office Action Summary

Application No.  
10/084,616

Applicant(s)  
Detwiler et al.

Examiner  
Hilary Gutman

Art Unit  
3612



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 28, 2002 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Information Disclosure Statement*

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

✓ Specifically, the specification discloses a "EEVC Working Group 17 Report" which is not included in the application.

### *Oath/Declaration*

✓ 2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The signature of the first inventor is not in permanent ink, or its equivalent in quality, as required under 37 CFR 1.52(a).

### *Drawings*

✓ 3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "vehicle", "object", and "vehicle

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body” of claim 1 and the “object” of claims 11 and 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Specification*

✓ 4. The attempt to incorporate subject matter into this application by reference to “EEVC Working Group 17 Report” dated December 1998 is improper because the essential material is a non-patent publication (see MPEP 608.01(p)). The applicant should amend the specification to include the material incorporated by reference.

An application as filed must be complete in itself in order to comply with 35 U.S.C. 112. Material nevertheless may be incorporated by reference, *Ex parte Schwarze*, 151 USPQ 426 (Bd. App. 1966). An application for a patent when filed may incorporate “essential material” by reference to (1) a U.S. patent, (2) a U.S. patent application publication, or (3) a pending U.S. application, subject to the conditions set forth below.

“Essential material” is defined as that which is necessary to (1) describe the claimed invention, (2) provide an enabling disclosure of the claimed invention, or (3) describe the best mode (35 U.S.C. 112). In any application which is to issue as a U.S. patent, essential material may not be incorporated by reference to (1) patents or applications published by foreign countries or a regional patent office, (2) non-patent publications, (3) a U.S. patent or application which itself incorporates “essential material” by reference, or (4) a foreign application.

Nonessential subject matter may be incorporated by reference to (1) patents or

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applications published by the United States or foreign countries or regional patent offices, (2) prior filed, commonly owned U.S. applications, or (3) non-patent publications however, hyperlinks and/or other forms of browser executable code cannot be incorporated by reference. See MPEP § 608.01.

Nonessential subject matter is subject matter referred to for purposes of indicating the background of the invention or illustrating the state of the art.

5. The disclosure is objected to because of the following informalities:

✎ On page 8, [0024], lines 6-7 and on page 9, the "G peak" is unclear

*peak flow G*

✓ On page 10, [0026], line 11, "brackets limits 10" should be "brackets 10 limits".

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

✓ Claim 1 recites the limitation "the vehicle body" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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✓ For claims 2 and 4, "a mild steel" is recited on line 2 which is unclear as to how the term "mild" is being defined and used. Furthermore, this phrase is vague and indefinite.

✓ For claim 3, line 2, "high strength steel" is recited which is unclear as to how the term "high strength" is being defined and used. Furthermore, this phrase is vague and indefinite.

✓ Claim 9 recites the limitation "frame rail extensions" in line 2. There is insufficient antecedent basis for this limitation in the claim.

For claims 11 and 12, it is unclear how the peak force and the peak moment is determined. And furthermore, it is believed that if the bumper system as recited exhibits the adequate peak force ( $< 7.5$  kN) and the adequate peak moment ( $< 510$  Nm) then it would follow that other prior art bumper systems having the same features would also exhibit these characteristic results.

✓ Also claim 14 is unclear as to how the "requirements" are determined and met and furthermore, the claim language is vague, ambiguous, and improper.

### *Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section

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122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

9. Claims 1, 6, and 11-14, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Futamata et al.

Futamata et al. disclose an impact reduction vehicle bumper system (Figures 3-4) for a vehicle for reducing the force upon impact with an object comprising: at least two frame rails 1, 2 (only one of which is shown) mounted on a vehicle body; at least two brackets 5, 5 (only one of which is shown) coupled respectively to the at least two frame rails; a beam 6 attached to the at least two brackets (Figure 3); a plate member 4 attached to the beam; and at least two frame rail extensions 13 indirectly coupled to the at least two brackets.

In addition, the plate member 4 has a U-shaped cross-section. The impact reduction system is a vehicle front bumper. The front bumper is mounted on a vehicle and it is believed that the vehicle meets ride height and fascia angle requirements for an alternative upper legform impactor test.

For claims 11 and 12, it is believed that if the bumper system as recited exhibits the adequate peak force ( $< 7.5$  kN) and the adequate peak moment ( $< 510$  Nm) then it would follow that other prior art bumper systems having the same features would also exhibit these characteristic results.

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10. Claims 1, 6, and 11-14, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Hartel et al.

Hartel et al. disclose an impact reduction vehicle bumper system for a vehicle for reducing the force upon impact with an object comprising (Figures 1-2): at least two frame rails 3, 3, mounted on a vehicle body; at least two brackets 2, 2 coupled respectively to the at least two frame rails; a beam 7 indirectly attached to the at least two brackets; a plate member 6 attached to the beam; and at least two frame rail extensions 1, 1 coupled to the at least two brackets.

In addition, the plate member has a U-shaped cross-section. The impact reduction system is a vehicle front bumper. The front bumper is mounted on a vehicle and it is believed that the vehicle meets ride height and fascia angle requirements for an alternative upper legform impactor test.

For claims 11 and 12, it is believed that if the bumper system as recited exhibits the adequate peak force ( $<7.5$  kN) and the adequate peak moment ( $< 510$  Nm) then it would follow that other prior art bumper systems having the same features would also exhibit these characteristic results.

11. Claims 1, 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Shibuya et al.

Shibuya et al. disclose an impact reduction vehicle bumper system for a vehicle for reducing the force upon impact with an object comprising: at least two frame rails 7 mounted on the vehicle body; at least two brackets 3, 45, coupled respectively to the at least two frame rails; a



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beam 5 indirectly attached to the at least two brackets; a plate member 11 attached to the beam; and at least two frame rail extensions 4 coupled to the at least two brackets.

The frame rail extensions 4 include an upper extension 21, a lower extension 31, and an inner extension 41. The upper and lower extensions 21, 31 form an angled box and the inner extension 41 is disposed between the upper and lower extensions.

*Claim Rejections - 35 USC § 103*

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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13. Claims 2-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartel et al. as applied to claim 1 above and further in view of the well known prior art.

Hartel et al. disclose that the members of the bumper system are clearly not made of a plastic material (Column 1, lines 59-62). In addition, Hartel et al. disclose the plate member being metallic (Column 2, lines 1-2).

In addition, the brackets can be considered side brackets since the brackets are disposed on either side of the vehicle body (left and right).

However, Hartel et al. lack the plate member, beam, brackets, and frame rail extensions being made specifically of steel.

Composing bumper members of steel is well known in the prior art since steel provides high strength and collision-energy absorption, improved energy transfer characteristics, excellent durability and corrosion resistance, as well as having good formability and being lightweight.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the components of Hartel et al. out of steel as taught by the well known prior art in order to provide the bumper system of Hartel et al. with high strength and good shock absorption.

Hartel et al., as modified, also disclose the plate member 6 being welded to the beam 7.

Hartel et al., as modified, lack the other components being "welded" together.

It should be noted that the patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a

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product of the prior art, the claim is unpatentable even though the prior product was made by a different process (MPEP 2113).

14. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartel et al. as applied to claim 1 above and further in view of Goupy.

Hartel et al. lack the plate member having a multi-step U-shaped cross-section and more specifically a three-step U-shaped cross-section.

Goupy discloses an impact reduction vehicle bumper system for a vehicle for reducing the force upon impact with an object comprising (Figures 1-2 and 9): a beam 2 and a plate member 1 attached to the beam. The plate member has a frontal face 21 and upper and lower borders 22. The plate member also has a multi-step U-shaped cross-section and more specifically a three-step U-shaped cross-section (Figure 9). The purpose of this is to create a "ripple-bearing" which provides increased mechanical resistance characteristics and maximum bending moments to the bumper system when subjected to stress.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have created the plate member of Hartel et al. with a three-step (or multi-step) U-shaped cross-section in order to increase mechanical resistance and maximize the bending moments of the bumper system when subjected to stress.

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*Conclusion*

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show other bumper systems similar to that of the current invention.

16. Any inquiry concerning this communication from the examiner should be directed to Hilary L. Gutman whose telephone number is (703) 305-0496.

17. **Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

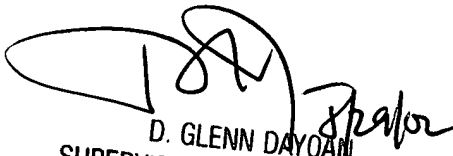
(703) 305-3597, (for formal communications intended for entry)

**or:**

(703) 305-0285, (for informal or draft communications, please clearly label "PROPOSED" or "DRAFT").

hlg

August 28, 2002

  
D. GLENN DAYOAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600